

DEPARTMENT OF STATE REVENUE

SECOND LETTER OF FINDINGS NUMBER: 99-0416P
Sales and Use Tax
Calendar Year 1995

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed on an audit completed on March 17, 1999.

Taxpayer failed to self-assess and remit use tax on clearly taxable items, primarily samples given away, office supplies, computer equipment, and other miscellaneous items. It remitted less than one percent (1%) of use tax due. Taxpayer is an Indiana corporation engaged in selling plywood, paneling, nails, screws, plumbing supplies, etc. at retail to the RV and mobile home industry.

At hearing, taxpayer states the company had a high degree of activity due to acquisitions and may have paid tax on invoices it cannot find. In addition, taxpayer states there are only two issues in the audit. A review of the file, however, indicates that taxpayer could not produce exemption certificates for sales made and less than one percent (1%) of the use tax due was paid.

ISSUE

I. Tax Administration – Penalty

DISCUSSION

Taxpayer requests a waiver of penalty and states there was a high degree of activity with regard to the parent's acquisition of other companies. Taxpayer further states it may have paid tax but cannot find the invoices and there are only two issues in the audit. The new CPA's hired after audit state they are now handling all policy and procedures which have been corrected.

Taxpayer's audit revealed that less than one percent (1%) of the use tax was paid and the taxpayer failed to charge tax on sales that had no exemption certificates on file. The fact that new CPA's were hired to handle current problems has no bearing on the years at audit.

The Indiana tax laws are clear in the Indiana Code and Regulations. The taxpayer was negligent in failing to remit and charge sales tax and self-assess and remit use tax due.

FINDING

Taxpayer's protest is denied.